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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,850	09/15/2000	Oskar Lamla	1748/49133	2145

23911 7590 05/06/2002

CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON, DC 20044-4300

[REDACTED] EXAMINER

RUDNICK, DOUGLAS W

ART UNIT	PAPER NUMBER
1764	10

DATE MAILED: 05/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/662,850	LAMLA ET AL.
Examiner	Art Unit	
Douglas W Rudnick	1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 February 2002.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> . | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I. in Paper No. 9 is acknowledged. The traversal is on the ground(s) that the method and apparatus claims contain common distinguishing features. This is not found persuasive because apparatus can be used to practice another and materially different process, such as without a material being a catalyst, as stated in the previous office action in Paper No. 8.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 6-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected method, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 9.

### ***Specification***

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. The title is directed to an apparatus and a method. It should be changed to reflect that only an apparatus is in the pending claims.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balling et al. (US 5397545) in view of Pratt et al. (US 6132895).

With respect to claim 1:

Balling et al. discloses the invention substantially as claimed. Balling et al. discloses a stack with a plurality of layers (Fig. 2), the layers comprising catalytic material (Col. 4, lines 26-27), and the layers having channels (Fig. 2, 34). However, Balling is silent to a plurality of end plates where at least one of the end plates has a supply or discharge line and to layers having an edge seal.

Pratt et al. teaches a plurality of end plates (Fig. 5, 560) where at least one of the end plates has a supply or discharge line (Fig. 5, 577 and 575) and

layers having an edge seal (Col. 6, lines 5-6) for the purpose of introducing the fuel and providing a gas-tight cell, respectively.

It would have been obvious to one ordinary skill in the art at the time Applicants' invention was made to have provided a plurality of end plates where at least one of the end plates has a supply or discharge line and layers having an edge seal in Balling et al. in order to, respectively, introduce fuel and provide a gas-tight cell as taught by Pratt et al.

With respect to claim 4:

Balling et al. discloses the invention substantially as claimed. However, Balling et al. is silent to the support structure for the catalyst material being metallic. Pratt et al. teaches a metallic support structure (Col. 4, lines 4-10) for the purpose of the structure having good conductivity.

It would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided a metallic support structure in Balling et al. in order to have good conductivity as taught by Pratt et al.

7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balling et al. in view of Pratt et al., as applied to claim 1, and Farooque et al. (US 6200696).

With respect to claim 2 and 3:

The modified apparatus of Balling et al. discloses the invention substantially as claimed. However, the modified apparatus of Balling et al. is

silent to a gas-tight sheet that surrounds the layers and has at least one opening and comprises a catalyst. Farooque et al. teaches a gas-tight sheet that surrounds the layers (Col. 4, lines 19-22) and has at least one opening (Fig. 1B) and comprises a catalyst (claim 28) for the purpose of containing leaking fuel.

It would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided a gas-tight sheet that surrounds the layers and has at least one opening and comprises a catalyst in the modified apparatus of Balling et al. in order to contain leaking fuel as taught by Farooque et al.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Balling et al. in view of Pratt et al., as applied to the claims above, and Lee et al. (US 6168703).

The modified apparatus of Balling et al. discloses the invention substantially as claimed. However, the modified apparatus of Balling et al. is silent to dendritic copper being used for the support structure. Lee et al. teaches the use of dendritic copper (Col. 1, lines 34-37) for the purpose of preventing thermal degradation.

It would have been obvious to one of ordinary skill in the art at the time Applicants' invention was made to have provided dendritic copper being used for the support structure in the modified apparatus of Balling et al. in order to prevent thermal degradation as taught by Lee et al.

### ***Conclusion***

9. The references US 2002/0012827 A1, US 4526845, and US 5209906 are cited to show state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas W. Rudnick whose telephone number is 703-305-3141. The examiner can normally be reached on M-F (8:30 am - 5:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marian Knode can be reached on 703-308-4311. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

DWR  
Douglas W. Rudnick  
Art Unit 1764

dwr  
May 1, 2002

Marian C. Knod  
MARIAN C. KNODE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700